IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

THURSDAY, THE 19TH JULY 2007 / 28TH ASHADHA 1929

RCRev..No. 231 of 2007

RCA.1/2006 of RENT CONTROL APPELLATE AUTHORITY, MAVELIKKARA
RCP.1/2003 of RENT CONTROL COURT, MAVELIKKARA

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REVN. PETITIONER/APPELLANT/RESPONDENT:

SASIKUMAR, IRACHIL KIZHAKKETHIL HOUSE, KADAVUR MURI, KANNAMANGALAM VILLAGE, PRESENT ADDRESS: SASIKUMAR, UDAYA DIAGNOSIS CENTRE, NEAR GOVT. HOSPITAL, MAVELIKKARA.

BY ADV. SRI.RASHEED C.NOORANAD
SRI.G.GOPAKUMAR (CHERTHALA)

RESPONDENT/RESPONDENT/PETITIONER:

MARIYAMMA JOHN,
SAM BUILDING, THAZHAKKARA,
MAVELIKKARA.

THIS RENT CONTROL REVISION HAVING COME UP FOR ADMISSION ON 19/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.B.Koshy & K.P.Balachandran, JJ.

R.C.R.No. 231 of 2007

ORDER

Balachandran, J.

The tenant is the revision petitioner. The respondent filed R.C.P.No.1/03 before the Rent Control Court, Mavelikkara seeking for an order of eviction of the petitioner from the scheduled building invoking grounds falling under Sections 11 (2)(b) and 11(3) of the Kerala Buildings (Lease and Rent Control) Act, 1965 (hereinafter referred to as 'the Act'). The rent Control Court rejected the claim for eviction under Section 11(2)(b), but, ordered eviction under Section 11(3) of the Act. The petitioner/tenant assailed the order of eviction before the Rent Control Appellate Authority, Mavelikkara in R.C.A.No.1/06. The said appeal was dismissed by the appellate authority concurring with the order of the Rent Control Court, ordering eviction under Section 11(3) of the Act.

2. It is vehemently contended before us by the learned counsel for the petitioner/tenant that the petitioner/tenant is conducting a Blood Bank in the scheduled building; that there is no other suitable building in the locality for him to shift his business and that the claim of the respondent/ landlady for eviction under Section 11(3) of the Act is not bona fide. All the same, it is not disputed that in another building, the petitioner/ tenant is conducting a Laboratory, an X-ray Unit and a Scanning Centre and he has not been able to prove as to which is the main source of livelihood for him. The need of the scheduled building advanced by the respondent/landlady was found to be bona fide and genuine concurrently by the authorities below. It was also found that the petitioner/tenant is not entitled to protection under the second proviso to Section 11(3) of the Act. There is no illegality, impropriety or incorrectness in the findings entered into concurrently by the authorities below. This revision, in the circumstances, is devoid of merit

and deserves only to be dismissed.

3. Finally, it is urged by the counsel for the petitioner that some time be granted to the petitioner to surrender vacant possession of the scheduled building to the respondent/landlady. The request so made deserves to be considered favourably.

In the result, we dismiss this Rent Control Revision. At the same time, we grant the petitioner time till 31.12.2007 to surrender vacant possession of the scheduled building to the respondent/ landlady on the following conditions:

i. that he shall deposit the entire arrears of rent, if any, in the execution court with a detailed statement as to its correctness within three weeks from today.

ii. that he shall file an affidavit before the execution court within one month from today, reporting that all arrears of rent are cleared and unconditionally undertaking that he will surrender vacant possession of the scheduled building to the respondent/landlady positively on or before

31.12.2007 and that he will continue to pay the future monthly rents on the due dates itself till he actually surrenders vacant possession of the scheduled building to the respondent/landlady and

iii. that in case the petitioner fails to comply with the above conditions, he shall not be entitled to the benefit of continuing in occupation of the scheduled building till 31.12.2007 and shall be liable to be evicted immediately on the expiry of the aforesaid one month in execution of the order of eviction passed against him.

Registry shall communicate a copy of this order to the respondent/landlady at the expense of the petitioner, as we are disposing of this revision at the admission stage itself, without issuing notice to the respondent/landlady.

(J.B.Koshy, Judge)

19th July, 2007

(K.P.Balachandran, Judge)

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